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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,019	02/26/2004	Andrew S. Ayers	71-849-1	3552
7590	04/10/2006		EXAMINER	
Steven W. Weinrieb SCHWARTZ & WEINRIEB Crystal Plaza One, Suite 1109 2001 Jefferson Davis Highway Arlington, VA 22202			TYLER, STEPHANIE E	
			ART UNIT	PAPER NUMBER
			3754	
DATE MAILED: 04/10/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/786,019	AYERS, ANDREW S.
	Examiner Stephanie E. Tyler	Art Unit 3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) 1,5,8,12,15,17-19 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

Detailed Action

***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hot melt adhesive supply hose, adhesive applicator and a dispensing outlet must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The disclosure is objected to because of the following informalities: The bolding and capitalization of the words "dispensing", "non-dispensing", and the trademark names. These words should be lower case without any bolding.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

Claims 4,12,19 contains the trademark/trade names FKM (VITON)<sup>®</sup> and FFKM (KALREZ)<sup>®</sup>. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982) See MPEP 2173.05,Section U. The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any

particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade names are used to identify/describe the rotary seals in a swivel joint and, accordingly, the identification/description is indefinite.

3. Claims 1, 5, 8,12,15,19 are objected to because of the following informalities:

The bolding and capitalization of the words “dispensing”, “non-dispensing”, and the trademark names. These words should be lower case without any bolding.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

5. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Brazell II (3,363,919).

The Brazell reference discloses a swivel joint (10) having a housing member (11,12) about a longitudinal axis (15) first connector (fig. 1), a shaft member (23) and a ball bearing (24,26).

Regarding claim 2 note in figure 1 wherein the ball bearing means comprises an annular array of ball bearing members (24/26) disposed around the longitudinal axis (15) of the housing member (11,12).

Regarding claim 3 note in figure 1 wherein the swivel joint assembly consists of rotary seals members (31) interposed between the shaft member (23) and said housing member (11,12) for sealing the interface defined between the shaft member the housing member.

Regarding claim 4 note in figure 1 wherein the rotary seal members interposed between said shaft member and said housing member for withstanding elevated temperature levels characteristic of the hot melt adhesive disposed within said swivel joint assembly so as to ensure the sealing of the interface defined between said shaft member and said housing member.

Regarding claim 5 note in figure 1, that the swivel joint assembly consists of rotary seal members (31) that are selected from elastomer material.

Regarding claim 6 note in figure 1, that the housing member, the first connector mounted upon the housing member, the shaft member, and the second connector mounted upon the shaft member are all coaxially aligned with respect to each other along the longitudinal axis of the housing member.

Regarding claim 7 note in figure 1, that the housing member (11,12), said shaft member, and the second connector mounted upon the shaft member (23) are all coaxially aligned with respect to each other along the longitudinal axis (15) of the housing member (23); and the first connector mounted upon the housing member (23)

is disposed substantially perpendicular to the longitudinal axis (15) of the housing member (11,12).

6. Claims 8-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Porter et al. (5,207,352).

The Porter et al. reference discloses in figures 1-4 the method and apparatus of a hot melt dispensing device having a housing member defined about a longitudinal axis; a hose member for supplying hot melt adhesive material into the housing member; a first connector mounted upon the housing member for enabling connection of the hose member to said housing member; a shaft member disposed within said housing member for rotation around the longitudinal axis of the housing member between a dispensing position and a non-dispensing position; a hot melt adhesive applicator for dispensing hot melt adhesive material onto a substrate during a hot melt adhesive material application phase of a hot melt adhesive material application cycle; a second connector mounted upon the shaft member for enabling connection of the hot melt adhesive applicator to the shaft member; and ball bearing means interposed between said the member and the housing member for facilitating the rotation of the shaft member around the longitudinal axis of the housing member so as to rotatably move the hot melt adhesive applicator between the dispensing position and said non-dispensing position despite a substantial increase in line pressure of the hot melt adhesive material, disposed within the swivel joint assembly (16, col. 13, lines 64-68 to col. 14, lines 1-5) when the hot melt adhesive applicator is deactivated so as not to dispense any hot melt adhesive material, wherein such increased line pressure would normally tend to prevent

the rotation of the shaft member with respect to the housing member due to hydraulic lock conditions.

Regarding claim 9 note in figures 1-4 that the hot melt adhesive dispensing system has a conventional swivel joint (15, 17) that consist of ball bearing means with an annular array of ball bearing members disposed around the longitudinal axis (198) of the housing member (16).

Regarding claim 10 in figures 1-4 that the hot melt adhesive dispensing system consist of conventional swivel joint (15, 17) with rotary seal members interposed between the shaft member and the housing member for sealing the interface defined between the shaft member and the housing member so as to prevent the hot melt adhesive, disposed within the swivel joint assembly (16), from fouling the ball bearing means.

Regarding claim 11 note in figures 1-4 that the hot melt adhesive dispensing system consist of conventional swivel joint (15, 17) with rotary seal members interposed between the shaft member and said housing member for withstandin elevated temperature levels characteristic of the hot melt adhesive disposed within the swivel joint assembly (16) so as to ensure the sealing of the interface defined between the shaft member and the housing member.

Regarding claim 12 note in figures 1-4 that the hot melt adhesive dispensing system consist of conventional swivel joint (15, 17) with rotary seal members that are selected from elastomer material.

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Regarding claim 13 note in figures 1-4 that the hot melt adhesive dispensing system consist of conventional swivel joint (15, 17) with the housing member, the first connector mounted upon the housing member, the shaft member, and the second connector mounted upon the shaft member are all coaxially (196) aligned with respect to each other along said longitudinal axis (198) of said housing member.

Regarding claim 14 note in figures 1-4 that the hot melt adhesive dispensing system consist of conventional swivel joint (15, 17) with the housing member, the shaft member, and the second connector mounted upon the shaft member are all coaxially (196) aligned with respect to each other along said longitudinal axis (198) of the housing member; and the first connector mounted upon the housing member is disposed substantially perpendicular to the longitudinal axis (198) of the housing member.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porter et al. (5,207,352) in view of Brazell II (3,363,919).

The Porter et al. reference discloses substantially everything regarding the hot melt method of use and the apparatus of dispensing an adhesive.

However the Porter et al. reference lack the structure of the swivel joint.

The Brazell II reference teaches a swivel joint having a housing member (11,12) about a longitudinal axis (15) first connector (fig. 1), a shaft member (23), a ball bearing (24,26) and rotary seals (31) for the purpose of providing a conventional swivel joint that is freely rotatable with respect to another component of a connection.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the Porter et al. device with the swivel joint as taught Brazell II in order to have a rotatable connection with the hose members for easy assembling and disassembling of the hot melt adhesive device.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie E. Tyler whose telephone number is 571-272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 517-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SET



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